



Department of Defense DIRECTIVE

NUMBER 7230.8

February 16, 1995

Certified Current as of November 21, 2003

USD(P)

SUBJECT: Leases and Demonstrations of DoD Equipment

References: (a) DoD Instruction 7230.8, "Leases and Demonstrations of DoD Aircraft," June 9, 1976 (hereby canceled)
(b) DoD Directive 5410.18, "Community Relations," July 3, 1974
(c) DoD Instruction 5410.19, "Armed Forces Community Relations," July 19, 1979
(d) National Disclosure Policy (NDP-1), "National Disclosure Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations," October 1, 1988
(e) through (i), see enclosure 1

1. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to update policy and responsibilities for the following:

1.1. The leasing of DoD equipment to defense contractors and industrial associations for sales demonstrations to foreign governments in the United States or outside of the United States.

1.2. The demonstration of DoD equipment to foreign governments in the United States or outside of the United States.

1.3. The leasing of DoD equipment to defense contractors and industrial associations for display or demonstration at international airshows or trade exhibitions.

1.4. Direct DoD participation at international airshows or trade exhibitions.

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, and the Defense Agencies (hereafter referred to collectively as "the DoD Components").

3. DEFINITIONS

3.1. Direct DoD Participation. The static display, demonstration (aerial or live), or manning by DoD personnel of defense equipment, including displays providing information on DoD systems and technology, as well as the transportation of equipment that will be part of a DoD exhibit or otherwise employed by the Department of Defense itself at an international trade exhibition. Manning by DoD employees includes operating equipment, standing by displayed equipment, and answering questions on the equipment. Direct DoD participation also includes the presence of DoD personnel as official speakers or panel members at an international trade exhibition. However, direct DoD participation does not include DoD employees who attend international trade shows and exhibitions as observers or in other capacities not directly related to the transportation, display or demonstration, and manning of defense equipment.

3.2. International Airshows and Trade Exhibitions. Events held outside the United States that are organized primarily for promoting the sale of aerospace and other defense products. Events that consist only of the demonstration or display of aircraft and other defense equipment for public enjoyment and community relations, including aerobatics demonstrations and static displays held on specifically designated public days of international airshows or trade exhibitions, are governed by DoD Directive 5410.18 (reference (b)) and DoD Instruction 5410.19 (reference (c)).

4. POLICY

4.1. General

4.1.1. When it is determined to be in the national security interest, the DoD Components may participate directly in international trade shows and exhibitions. Consideration of direct participation will normally be on a case-by-case basis, using the following guidelines:

4.1.1.1. Participation shall be based on national security and foreign policy objectives, and will be reserved for events held in strategically important regions in which the Department of Defense wants to demonstrate continued U.S. interest and commitment.

4.1.1.2. Direct participation in a particular event must be supported by the relevant Military Departments, Unified Combatant Command, and U.S. Embassy before being considered.

4.1.2. When foreign sales of U.S.-manufactured defense equipment would contribute to U.S. national security and foreign policy interests, the Secretaries of the Military Departments or their designees may lease DoD equipment to a defense contractor or industrial association for demonstration to foreign governments or for display or demonstration at international trade shows and exhibitions. Equipment may be leased only if the equipment is not needed for the term of the lease by the Military Department, and can be made available without unduly impacting military readiness.

4.2. Leases of Equipment to Contractors or Associations for Sales Demonstrations to Foreign Governments

4.2.1. The Military Departments may lease DoD equipment to defense contractors or industrial associations for demonstration to foreign governments when that equipment is eligible for disclosure under NDP-1 (reference(d)), or an exception to reference (d) has been obtained. (See DoD Directive 5230.11, reference (e)).

4.2.2. The Military Departments may lease, under Section 2667 of 10 U.S.C. (reference (f)), or lend, under Section 2541(a)(2) of reference (f), equipment to contractors or industrial associations. Lease and lending agreements shall be approved by the Secretary of the Military Department involved, or a designated representative.

4.2.3. Charges for leased equipment shall normally be determined in accordance with DoD Instruction 7230.7 (reference (g)); however, lease charges on equipment that has undergone significant modifications at the lessee's expense may be adjusted to recognize the lessee's investment. Furthermore, in accordance with Section 2667 of reference (f), the Secretaries of the Military Departments or their designees may, in order to promote the national defense or serve the public interest, determine that no lease charge will be assessed for the leased equipment, or that a reduced charge (such as charging the contractor only for those hours that the equipment is operated in an aerial or live demonstration) will be assessed, notwithstanding paragraph 6.3.1. of reference (g). Examples of promoting the national defense or serving the public

interest include, but are not limited to, helping preserve and broaden defense industrial base capabilities, and enhancing economies of scale for DoD procurement.

4.2.4. In addition to any charges assessed in accordance with paragraph 4.2.3., above, the lessee or the loan recipient shall pay other appropriate charges for any supplies or services provided by DoD personnel in connection with the lease. Such charges may include, but are not limited to, spare parts, maintenance services, fuel, crew pay, and crew per diem. The lease shall provide that the lessee shall not charge any costs assessed under this Directive, directly or indirectly, to any U.S. Government contract, except to the extent chargeable to contracts for foreign military sales under DFARS, Section 225.7303-2 (reference(h)).

4.2.5. The U.S. Government may assume the risk of loss or damage of the leased equipment when a U.S. Government pilot is the pilot-in-command during flights, or when U.S. government personnel operate the equipment. The lessee shall assume the risk of loss or liability for damage in all cases except those in which the U.S. Government has chosen to assume the risk. That risk shall be covered by hull insurance or the posting of a surety bond on the depreciated value of the equipment being leased or, with the approval of the Military Department involved, the lessee may be self-insured. The Military Department involved shall review and approve the flight or operation plan to ensure that the risks are not inordinate to the need. In all cases, the lessee shall be required to hold the U.S. Government harmless against claims by third parties arising out of the lease or demonstration, and will be required to indemnify the U.S. Government against liability to third parties arising out of the lease or demonstration.

4.3. Demonstrations by a Military Department to a Foreign Government

4.3.1. A request by a foreign government for a demonstration of DoD equipment directly by DoD personnel, rather than by a contractor under subsection 4.2., above, shall be approved by the relevant Military Department if such demonstration is determined to promote the national defense or is in the public interest. Only equipment eligible for disclosure under NDP-1 (reference (d)) may be demonstrated, unless an exception to reference (d) has been obtained. (See DoD Directive 5230.11 (reference (e)).)

4.3.2. The U.S. Government shall assume the risk of loss or damage of the demonstration equipment when a U.S. Government pilot is the pilot-in-command during flights, or when U.S. Government personnel operate the equipment. If a foreign government operator or pilot is in control of the equipment, or the equipment is not in the custody of the U.S. Government, the foreign government shall assume the risk and

be required to reimburse the U.S. Government for any loss or damage to the equipment. In all cases, the foreign government shall be required to hold the U.S. Government harmless against claims by third parties arising out of the demonstration and shall be required to indemnify the U.S. Government against liability to third parties arising out of the demonstration.

4.4. Leases of Equipment to Contractors or Associations for Display or Demonstration at International Airshows and Trade Exhibitions

4.4.1. Pursuant to Pub. L. No. 102-484 (1992), Section 1082 (reference (i)), a request by a defense contractor or industrial association to lease DoD equipment for display or demonstration at an international trade show or exhibition shall be approved only if the defense contractor or industrial association agrees to reimburse the Treasury of the United States for:

4.4.1.1. All incremental costs of military personnel accompanying the equipment, including food, lodging, and local transportation.

4.4.1.2. All incremental transportation costs incurred in moving such equipment from its normally assigned location to and from the event.

4.4.1.3. Any other miscellaneous incremental costs to the U.S. Government that would not have been incurred had this equipment not been leased to the defense contractor or industrial association. Transportation of equipment to and from an event that fulfills legitimate training requirements of the applicable Military Department that would otherwise have to be met does not constitute an incremental cost that must be reimbursed.

4.4.2. The Secretaries of the Military Departments or their designees shall determine charges for leased equipment in accordance with DoD Instruction 7230.7 (reference (g)). In accordance with 10 U.S.C. 2667 (reference (f)), the Secretaries of the Military Departments or their designees may, in order to promote the national defense or serve the public interest, determine that no lease charge shall be assessed for the leased equipment, or that a reduced charge (such as charging the contractor only for those hours that the equipment is operated in an aerial or live demonstration) shall be assessed, notwithstanding paragraph 6.3.1. of reference (g). In such instances, the Military Departments are required to recover from contractors or industrial associations only those incremental costs that must be reimbursed under reference (i).

4.4.3. Under such leases, assumption of risk of loss or liability for damage shall be as provided in paragraph 4.2.5., above.

4.5. Direct DoD Participation in International Airshows and Trade Exhibitions

In accordance with Pub. L. No. 102-484 (1992), Section 1082 (reference (i)), direct DoD participation in an international trade show or exhibition is only authorized if:

4.5.1. A determination is made by the Under Secretary of Defense for Policy (USD(P)), pursuant to the delegation of authority made in subsection 5.1., below, that such participation is in the national security interests of the United States.

4.5.2. The USD(P) provides to the congressional defense committees, at least 45 days before the opening of the exhibition, a report detailing:

4.5.2.1. Why the show or exhibition is in the national security interest.

4.5.2.2. A description of the implications that promoting the sale of the equipment in question will have on arms control.

4.5.2.3. An estimate of any costs to be incurred by the Department of Defense.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Decide on direct DoD participation in all international airshows or trade exhibitions. The authority to make the determination required by Section 1082, reference (i) as to whether direct DoD participation in particular airshows or trade exhibitions is in the national security interest is hereby delegated to the USD(P).

5.1.2. Provide notification to the congressional defense committees, as discussed in subsection 4.5., above, if direct DoD participation is determined to be in the national security interest.

5.1.3. Ensure that the Defense Security Assistance Agency (DSAA) shall:

5.1.3.1. Formulate policy on DoD participation in international trade shows and exhibitions.

5.1.3.2. Prepare decision memoranda for the USD(P) upon receipt of requests from the DoD Components for direct participation.

5.1.3.3. Oversee planning and implementation of direct DoD participation at international airshows or trade exhibitions.

5.1.3.4. Compile records of DoD expenditures in support of DoD participation at international airshows or trade exhibitions.

5.1.3.5. Provide guidance to the appropriate Unified Combatant Command to assist in planning, coordination, and execution of the event after the USD(P) has decided on direct participation.

5.2. The Heads of the DoD Components shall submit written proposals for direct DoD participation in a particular airshow or trade exhibition to the Director, DSAA, at least 180 days before the opening of the event. The Components considering such proposals should evaluate events using criteria discussed in paragraph 4.1.1., above. Requests originating with a Unified Combatant Command shall be submitted through the Chairman of the Joint Chiefs of Staff. Requests should include:

5.2.1. A general description of the event, including what characterizes it as an international trade show or exhibition.

5.2.2. A list of equipment or technology proposed for display or demonstration.

5.2.3. The reasons that participation is in the national security interest.

5.2.4. The possible implications of participation for arms control efforts.

5.2.5. The estimated costs of participation.

5.3. The Secretaries of the Military Departments shall:

5.3.1. Approve all leases to defense contractors or industrial associations of DoD aircraft and other equipment for demonstrations to foreign governments or for display at international trade shows and exhibitions. In the case of leases for demonstrations to foreign governments, the responsible Military Department shall ensure that the necessary clearances have been obtained as required by paragraph 4.2.1., above. For international trade shows and exhibitions, the Military Departments shall provide to DSAA a list of equipment proposed for lease before the opening of that event.

5.3.2. Provide to DSAA, within 90 days of the end of an international trade

show or exhibition, a report listing:

5.3.2.1. DoD equipment under the control of that Military Department leased for the event.

5.3.2.2. In the case of direct DoD participation, the Military Department equipment displayed or demonstrated at the event and costs incurred for direct participation, including crew and fuel costs, costs associated with technology display booths, and any other costs that would not have been incurred had the Military Department not participated in that event.

5.3.2.3. In the case of direct DoD participation or leasing of equipment to contractors without direct participation, the total cost charged to training budgets for transportation of equipment to and from the event.

5.4. The Commanders of the Unified Combatant Commands shall:

5.4.1. Plan, coordinate, and execute direct DoD participation in international airshows and trade exhibitions after the USD(P) has decided on direct DoD participation and has submitted the report described in paragraph 4.5.2., above, to the congressional defense committees.

5.4.2. Provide to DSAA, within 90 days of the end of an international trade show or exhibition, a report listing:

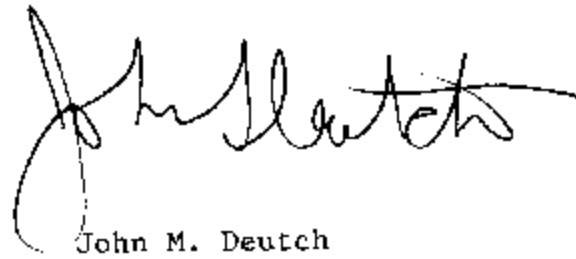
5.4.2.1. DoD equipment under the control of that Unified Combatant Command leased for the event.

5.4.2.2. In the case of direct DoD participation, the Unified Combatant Command equipment displayed or demonstrated at the event and costs incurred for direct participation, including crew and fuel costs, costs associated with technology display booths, and any other costs that would not have been incurred had the Unified Combatant Command not participated in this event.

5.4.2.3. In the case of direct DoD participation or leasing of equipment to contractors without direct participation, the total cost charged to training budgets for transportation of equipment to and from the event.

6. EFFECTIVE DATE

This Directive is effective immediately.

A handwritten signature in black ink, appearing to read "John M. Deutch". The signature is fluid and cursive, with a large initial "J" and "M".

John M. Deutch
Deputy Secretary of Defense

Enclosures - 1

1. References

E1. ENCLOSURE 1

REFERENCES, continued

- (e) DoD Directive 5230.11, "Disclosure of Classified Military Information to Foreign Governments and International Organizations," June 16, 1992
- (f) Sections 2541(a)(2) and 2667 of title 10, United States Code
- (g) DoD Instruction 7230.7, "User Charges," January 29, 1985
- (h) Defense FAR Supplement, Sections 225.7303-2, current edition
- (i) Section 1082 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year 1993," October 23, 1992